

Nebraska Motor Fuels Tax Refunds

January 1, 2005

For more information, check our Web
site: www.revenue.state.ne.us/fuels



Overview

Motor fuels, such as gasoline, gasohol and undyed diesel, purchased in Nebraska are taxed at the time of purchase. When taxed fuel is subsequently purchased by an exempt entity or used in an exempt manner, a refund is available.

Exempt entities include the United States government, its agencies, and federal corporations wholly owned by the United States government. In addition, taxed fuel sold in a qualifying Native American sale is subject to refund. Motor fuels used in licensed motor vehicles by state and local governmental entities, including school districts, **do not** qualify for a refund.

The types of qualifying exempt use are defined as agricultural; quarrying; industrial; or any other nonhighway use. Fuel used in a licensed motor vehicle is not eligible for refund regardless of how that vehicle was used.

Motor vehicle fuels, such as gasoline and gasohol, used in unlicensed equipment must be purchased during tax years ending on or after January 1, 2005 to be eligible for refund. For tax years ending prior to 2005, the tax paid on the qualifying use of such fuel may be eligible as an income tax credit by filing Form 4136N.

General Information

Claim Form. A refund is claimed by filing a Nebraska Motor Fuels Tax Refund Claim, Form 84. You must file your claim within three years from the purchase date of the fuel. In order to ensure that claims meet the minimum statutory amount, we encourage the filing of claims on an annual basis. However, you may choose to file as frequently as monthly depending upon your level of activity.

Claims filed for refunds of tax paid on aviation jet fuel or aviation gasoline used in the operation of a FAA-approved air school must be filed within seven months of the date of purchase.

In order to be a valid and complete claim, the claim must contain the reason for the claim, an original signature, and be supported by appropriate documentation. The type of documentation needed for claims will depend upon the reason for the claims.

Minimum Claim Amount. Effective January 1, 2005, the Nebraska tax paid on the gallons eligible for refund must be at least \$25. This minimum must be met within a calendar year for each fuel type claimed, except Petroleum Release Remedial Action Fee, which has a \$10 minimum.

Types of Claims

Refunds are available when taxed fuel is subsequently purchased by an exempt entity or used in a qualifying exempt manner. Some of the most common types of refunds are discussed below.

Federal Governmental Agencies and Native American Transactions. If fuel was purchased with tax by an agency of the Federal government, that agency may file for a refund. The refund is allowed for purchases by the United

States government, its agencies, and federal corporations wholly owned by the United States government.

Native Americans who purchase tax-paid fuel on a Nebraska Indian reservation and reside on the reservation, may also file a refund for the tax paid on such fuel.

To substantiate the refund claim, copies of invoices and other supporting records must be submitted with the claim.

In situations where previously taxed fuel was sold tax free to qualifying federal agencies or Native Americans by a licensed supplier, distributor, importer or wholesaler, the licensee may claim a deduction of those gallons on their motor fuels tax return by using the appropriate schedule code. When such sales are made by retailers, a credit of the tax may be obtained by filing a Nebraska Retailer's Claim for Exempt Sales of Motor Fuels, Form RC73, with their fuel vendor.

Exempt Use of Tax-Paid Diesel, Gasoline, Gasohol and Ethanol. Any person who has purchased and used tax-paid fuel for a qualified exempt purpose may file a claim. Generally, any use of fuel in unlicensed equipment will qualify for a refund.

Provided that appropriate records are maintained, both licensed vehicles and unlicensed equipment may be fueled from the same storage facility. In such cases, complete withdrawal logs must be maintained in order to determine the gallons eligible for refund. Such logs should include the date of the fuel withdrawal, equipment number or description, and number of gallons.

When separate storage facilities are used for taxable use fuel and nontaxable use fuel, the department strongly encourages the use of withdrawal logs to determine the number of gallons used. In some instances, the department may require that withdrawal logs be maintained. In all cases, the claimant must have adequate controls to ensure that licensed vehicles are not fueled from the nontaxable use storage.

The following documentation must be provided with the refund claim. This documentation will not be returned.

- **Description of your operations.** This must be submitted with the initial claim and on an annual basis thereafter. For example, for agricultural use, this information includes the number of acres farmed, types of crops raised, and the number and type of livestock;
- **Type of equipment in which the fuel was used.** An equipment list must be submitted with the initial claim and on an annual basis thereafter. The list must include the type of fuel used by each piece of equipment and which vehicles were licensed;
- **Copies of purchase invoices** showing the product type, gallons, amount of tax paid, date of purchase, and vendor's name; and
- **Copies of withdrawal logs**, if applicable.

Exports of Tax-Paid Fuel, including the Petroleum Release Remedial Action Fee. Any person who is not currently licensed or required to be licensed, who owned and exported fuel upon which Nebraska fuels tax was previously paid may file a claim.

Copies of invoices or other records that indicate the fees were paid to a motor fuel licensee, and to what state the fuel was exported must be attached to the refund claim.

Destroyed or Contaminated Tax-Paid Fuel. Any person who owned fuel upon which Nebraska fuels tax was previously paid, and such fuel is subsequently destroyed or accidentally contaminated with another type of fuel may file a claim. Fuel tax will not be refunded on undyed diesel which was intentionally mixed with dyed diesel.

The following documentation must be submitted: date fuel was destroyed or contaminated, the number of gallons destroyed or contaminated, the owner of fuel, copies of purchase invoices and bills of lading, inventory records, and copies of insurance claims.

Amount of Refund

The refund is based upon the tax paid at the time the fuel was purchased. If an erroneous tax is paid at the time of purchase, the refund will be determined based upon the lesser of the tax paid or the proper amount of tax.

Beginning in January 2005, the tax refunded is reduced by one cent for each gallon of diesel and three and a half cent for each gallon of gasoline/gasohol for refunds filed by fuel users. A table of refund rates can be found on our Web site.

Additional deductions from the calculated refund may apply. These deductions include commission, consumer's use tax, and aircraft fuels tax.

- **Commission.** If you are a motor vehicle fuels, a diesel, or aircraft fuel licensee, you may need to deduct the appropriate commission.
- **Consumer's Use Tax.** Persons who purchase undyed diesel fuel for reefer units, home heating, or any other use which subjects it to the sales and use tax, must remit the state and city use tax on a Nebraska and Local Consumer's Use Tax Return, Form 2, or on the appropriate line on Nebraska and Local Sales and Use Tax Return, Form 10. If the appropriate use tax is not paid on a Form 2 or a Form 10, the refund will be reduced by the amount of use tax determined to be due.
- **Aircraft Fuels Tax.** If you are claiming a refund for tax paid on gasoline or gasohol which was subsequently used to fuel an airplane, the claim must be reduced by the aviation gasoline tax rate of \$0.05 per gallon.

Taxpayer Records

Complete records substantiating the refund must be maintained for a period of at least three years. All refund claims are subject to audit for three years from the date the claims were filed.

Taxpayer Assistance

Additional information can be found on our Web site: www.revenue.state.ne.us/fuels. If you need further information or have any questions concerning this claim, contact the Motor Fuels Division toll-free 1-800-554-3835. Lincoln residents may call 471-5730.